

Amendments to the Drawings:

The drawing sheet attached in connection with the above-identified application containing Figure 1 is being presented as a new formal drawing sheet to be substituted for the previously submitted drawing sheet. The drawing sheet substituted for the previously submitted drawing sheet has been labeled in the top margin as a replacement sheet.

Per the Examiner's request, the specific change which has been made to Figure 1 is to add the label prior art.

REMARKS

Applicants respectfully request reconsideration of the present Application in view of the foregoing amendments and in view of the reasons that follow. Claims 1-22 have been rejected by the Examiner. Claims 1, 3, 5-8, and 16 have been amended, and no new matter has been added. Claim 4 has been cancelled. Accordingly, Claims 1-3, and 5-22 will be pending in the present Application upon entry of this Reply and Amendment.

A detailed listing of all claims that are, or were, in the Application, irrespective of whether the claim(s) remain under examination in the Application, is presented, with an appropriate defined status identifier.

For simplicity and clarity purposes in responding to the Office Action, Applicants' remarks are primarily focused on the rejections of the independent claims (i.e., claims 1, 8 and 16) outlined in the Office Action, with the understanding that the dependent claims that depend from the independent claims are patentable for at least the same reasons (and in most cases other reasons) that the independent claims are patentable. Applicants expressly reserve the right to argue the patentability of the dependent claims separately in any future proceedings.

On page 3 of the Office Action, Claims 1-3 and 5-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Appl. No. 2003/0198206 to Cain et. al. ("Cain") in view of U.S. Patent Appl. No. 2004/0203820 to Billhartz ("Billhartz"). Applicants respectfully submit that these rejections should be withdrawn, because the cited references fail to disclose, teach, or suggest the claimed invention.

The Office Action stated:

[T]he time division multiple access structure including a plurality of time slots during which the transceiver nodes are configured to communicate data cells (see Pars. [0057-59]), the data cells being transmitted from a transmission queue, the data cells including the congestion metric information (see Pars. [0028, 0042 and 0077]); but fails to teach routing information. However, Billhartz teaches routing information (see Par. [0074]).

The Office Action further stated:

Cain further discloses the communication system, wherein the cell counts are compared against the total capacity of each link (see Pars. [0025 and 0028]).

With respect to Claims 1-3 and 5-22, Applicants respectfully submit that the combination of the cited references would not result in the subject matter recited in Claims 1-3 and 5-22 because the proposed modification of Cain in combination with Billhartz does not disclose, teach or suggest “wherein the congestion metric information is based on comparing cell counts against a total capacity of each link,” as required by Claims 1-3 and 5-22.

Cain does not appear to disclose comparing cell counts against a total capacity of each link. In the paragraphs cited in the Office Action, Cain discloses “processing multiple received semi-permanent time slot requests” (Cain, paragraph 25) and a controller managing “two nodes simultaneously initiat[ing] time lost requests.” (Cain, paragraph 28). Cain does not appear to disclose, teach or suggest any cell count comparison to the total capacity of each link.

Billhartz does not appear to disclose comparing cell counts against a total capacity of each link. In the paragraph cited in the Office Action, Billhartz discloses a “traffic monitoring unit 70 may passively monitor the traffic between nodes 30 in a network.” (Billhartz, paragraph 74). Further, Billhartz does not appear to disclose “transceiver nodes” which “communicate data cells … including routing information.” In Billhartz, the router provides the routing information data. Billhartz does not appear to disclose, teach or suggest any cell count comparison to the total capacity of each link or transceiver nodes which communicate data cells including routing information.

The Office Action has cited to no teaching in the prior art “wherein the congestion metric information is based on comparing cell counts against a total capacity of each link,” as required by Claims 1-3 and 5-22. The Office Action's failure to provide a citation to the art of record is not surprising, because the only evidence in the record of a teaching of such a feature is contained in the present Application. Of course, any reliance on the present Application would constitute impermissible hindsight reasoning.

Applicants respectfully request withdrawal of the rejection of Claims 1-3 and 5-22, since Cain in combination with Billhartz does not disclose, teach or suggest "wherein the congestion metric information is based on comparing cell counts against a total capacity of each link," as required by Claims 1-3 and 5-22.

Applicants respectfully submit that the subject matter recited in independent Claims 1, 8, and 16 and the claims which are dependent thereon, would not have been obvious to a person of ordinary skill in the art and are patentable. Accordingly, Applicants request withdrawal of the rejection of Claims 1-3 and 5-22 under 35 U.S.C. § 103(a).

* * *

Applicants believe that the present Application is now in condition for allowance. Favorable reconsideration of the Application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present Application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 18-1722. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. § 1.136 and authorizes payment of any such extensions fees to Deposit Account No. 18-1722.

Respectfully submitted,

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